

[Code of Federal Regulations]
[Title 24, Volume 3, Parts 500 to 699]
[Revised as of April 1, 2000]
From the U.S. Government Printing Office via GPO Access
[CITE: 24CFR583.300]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 583--SUPPORTIVE HOUSING PROGRAM--Table of Contents

Subpart D--Program Requirements

Sec. 583.300 General operation.

(a) **State and local requirements.** Each recipient of assistance under this part must provide housing or services that are in compliance with all applicable State and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the project is located regarding the condition of the structure and the operation of the housing or services.

(b) **Habitability standards.** Except for such variations as are proposed by the recipient and approved by HUD, supportive housing must meet the following requirements:

1. Structure and materials. The structures must be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from the elements.
2. Access. The housing must be accessible and capable of being utilized without unauthorized use of other private properties. Structures must provide alternate means of egress in case of fire.
3. Space and security. Each resident must be afforded adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.
4. Interior air quality. Every room or space must be provided with natural or mechanical ventilation. Structures must be free of pollutants in the air at levels that threaten the health of residents.
5. Water supply. The water supply must be free from contamination.
6. Sanitary facilities. Residents must have access to sufficient sanitary facilities that are in proper operating condition, may be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.
7. Thermal environment. The housing must have adequate heating and/or cooling facilities in proper operating condition.

8. Illumination and electricity. The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliances while assuring safety from fire.
9. Food preparation and refuse disposal. All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.
10. Sanitary condition. The housing and any equipment must be maintained in sanitary condition.
11. Fire safety.

(i) Each unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.

(ii) The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

(c) **Meals.** Each recipient of assistance under this part who provides supportive housing for homeless persons with disabilities must provide meals or meal preparation facilities for residents.

(d) **Ongoing assessment of supportive services.** Each recipient of assistance under this part must conduct an ongoing assessment of the supportive services required by the residents of the project and the availability of such services, and make adjustments as appropriate.

(e) **Residential supervision.** Each recipient of assistance under this part must provide residential supervision as necessary to facilitate the adequate provision of supportive services to the residents of the housing throughout the term of the commitment to operate supportive housing. Residential supervision may include the employment of a full- or part-time residential supervisor with sufficient knowledge to provide or to supervise the provision of supportive services to the residents.

(f) **Participation of homeless persons.**

1. Each recipient must provide for the participation of homeless persons as required in section 426(g) of the McKinney Act (42 U.S.C. 11386(g)). This requirement is waived if an applicant is unable to meet it and presents a plan for HUD approval to otherwise consult with homeless or formerly homeless persons in considering and making policies and decisions. See also Sec. 583.330(e).

2. Each recipient of assistance under this part must, to the maximum extent practicable, involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project and in providing supportive services for the project.

(g) **Records and reports.** Each recipient of assistance under this part must keep any records and make any reports (including those pertaining to race, ethnicity, gender, and disability status data) that HUD may require within the timeframe required.

(h) **Confidentiality.** Each recipient that provides family violence prevention or treatment services must develop and implement procedures to ensure:

1. The confidentiality of records pertaining to any individual services; and
2. That the address or location of any project assisted will not be made public, except with written authorization of the person or persons responsible for the operation of the project.

(i) **Termination of housing assistance.** The recipient may terminate assistance to a participant who violates program requirements. Recipients should terminate assistance only in the most severe cases.

Recipients may resume assistance to a participant whose assistance was previously terminated. In terminating assistance to a participant, the recipient must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. This process, at a minimum, must consist of:

1. Written notice to the participant containing a clear statement of the reasons for termination;
2. A review of the decision, in which the participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
3. Prompt written notice of the final decision to the participant.

(j) **Limitation of stay in transitional housing.** A homeless individual or family may remain in transitional housing for a period longer than 24 months, if permanent housing for the individual or family has not been located or if the individual or family requires additional time to prepare for independent living. However, HUD may discontinue assistance for a transitional housing project if more than half of the homeless individuals or families remain in that project longer than 24 months.

(k) **Outpatient health services.** Outpatient health services provided by the recipient must be approved as appropriate by HUD and the Department of Health and Human Services (HHS). Upon receipt of an application that proposes the provision of outpatient health services, HUD will consult with HHS with respect to the appropriateness of the proposed services.

(l) **Annual assurances.** Recipients who receive assistance only for leasing,

operating costs or supportive services costs must provide an annual assurance for each year such assistance is received that the project will be operated for the purpose specified in the application.

(Approved by the Office of Management and Budget under control number 2506-0112)

[58 FR 13871, Mar. 15, 1993, as amended at 59 FR 36892, July 19, 1994; 61 FR 51176, Sept. 30, 1996]

Sec. 583.305 Term of commitment; repayment of grants; prevention of undue benefits.

(a) **Term of commitment and conversion.** Recipients must agree to operate the housing or provide supportive services in accordance with this part and with sections 423 (b)(1) and (b)(3) of the McKinney Act (42 U.S.C. 11383(b)(1), 11383(b)(3)).

(b) **Repayment of grant and prevention of undue benefits.** In accordance with section 423(c) of the McKinney Act (42 U.S.C. 11383(c)), HUD will require recipients to repay the grant unless HUD has authorized conversion of the project under section 423(b)(3) of the McKinney Act (42 U.S.C. 11383(b)(3)).

[61 FR 51176, Sept. 30, 1996]

Sec. 583.310 Displacement, relocation, and acquisition.

(a) **Minimizing displacement.** Consistent with the other goals and objectives of this part, recipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of supportive housing assisted under this part.

(b) **Relocation assistance for displaced persons.** A displaced person (defined in paragraph (f) of this section) must be provided relocation assistance at the levels described in, and in accordance with, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR part 24.

(c) **Real property acquisition requirements.** The acquisition of real property for supportive housing is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) **Responsibility of recipient.**

1. The recipient must certify (i.e., provide assurance of compliance) that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and must ensure such compliance notwithstanding any third party's contractual obligation to the recipient to comply with these provisions.
2. The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs also may be paid for with local public funds or funds available from other sources.

3. The recipient must maintain records in sufficient detail to demonstrate compliance with provisions of this section.

(e) **Appeals.** A person who disagrees with the recipient's determination concerning whether the person qualifies as a "displaced person," or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the recipient. A low-income person who is dissatisfied with the recipient's determination on his or her appeal may submit a written request for review of that determination to the HUD field office.

(f) **Definition of displaced person.**

1. For purposes of this section, the term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property permanently as a direct result of acquisition, rehabilitation, or demolition for supportive housing projects assisted under this part. The term "displaced person" includes, but may not be limited to:

(i) A person that moves permanently from the real property after the property owner (or person in control of the site) issues a vacate notice, or refuses to renew an expiring lease in order to evade the responsibility to provide relocation assistance, if the move occurs on or after the date the recipient submits to HUD the application or application amendment designating the project site.

(ii) Any person, including a person who moves before the date described in paragraph (f)(1)(i) of this section, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project.

(iii) A tenant-occupant of a dwelling unit who moves permanently from the building/complex on or after the date of the "initiation of negotiations" (see paragraph (g) of this section) if the move occurs before the tenant has been provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions must include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(A) The tenant's monthly rent before the initiation of negotiations and estimated average utility costs, or

(B) 30 percent of gross household income. If the initial rent is at or near the maximum, there must be a reasonable basis for concluding at the time the project is initiated that future rent increases will be modest.

- (iv) A tenant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either:

(A) A tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary

relocation, or

(B) Other conditions of the temporary relocation are not reasonable.

(v) A tenant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another unit in the same building/complex, if either:

(A) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move;

or

(B) Other conditions of the move are not reasonable.

2. Notwithstanding the provisions of paragraph (f)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, or local or tribal law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section), if the project is approved;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

3. The recipient may request, at any time, HUD's determination of whether a displacement is or would be covered under this section.

(g) **Definition of initiation of negotiations.** For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the recipient and HUD.

(h) **Definition of project.** For purposes of this section, the term "project" means an undertaking paid for in whole or in part with assistance under this part. Two or more activities that are integrally related, each essential to the others, are considered a single project, whether or not all component activities receive assistance under this part.

[58 FR 13871, Mar. 15, 1993, as amended at 59 FR 36892, July 19, 1994]

Sec. 583.315 Resident rent.

(a) **Calculation of resident rent.** Each resident of supportive housing may be required to pay as rent an amount determined by the recipient which may not exceed the highest of:

1. 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child care expenses);
2. 10 percent of the family's monthly income; or
3. If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated.

(b) **Use of rent.** Resident rent may be used in the operation of the project or may be reserved, in whole or in part, to assist residents of transitional housing in moving to permanent housing.

(c) **Fees.** In addition to resident rent, recipients may charge residents reasonable fees for services not paid with grant funds.

[58 FR 13871, Mar. 15, 1993, as amended at 59 FR 36892, July 19, 1994]

Sec. 583.320 Site control.

(a) **Site control.**

1. Where grant funds will be used for acquisition, rehabilitation, or new construction to provide supportive housing or supportive services, or where grant funds will be used for operating costs of supportive housing, or where grant funds will be used to provide supportive services except where an applicant will provide services at sites not operated by the applicant, an applicant must demonstrate site control before HUD will execute a grant agreement (e.g., through a deed, lease, executed contract of sale). If such site control is not demonstrated within one year after initial notification of the award of assistance under this part, the grant will be deobligated as provided in paragraph (c) of this section.
2. Where grant funds will be used to lease all or part of a structure to provide supportive housing or supportive services, or where grant funds will be used to lease individual housing units for homeless persons who will eventually control the units, site control need not be demonstrated.

(b) **Site change.**

1. A recipient may obtain ownership or control of a suitable site different from the one specified in its application. Retention of an assistance award is subject to the new site's meeting all requirements under this part for suitable sites.
2. If the acquisition, rehabilitation, acquisition and rehabilitation, or new construction costs for the substitute site are greater than the amount of the grant awarded for the site specified in the application, the recipient must provide for all additional costs. If the recipient is unable to demonstrate to HUD that it is able to provide for the difference in costs, HUD may deobligate the award of assistance.

(c) **Failure to obtain site control within one year.** HUD will recapture or deobligate any award for assistance under this part if the recipient is not in control of a suitable site before the expiration of one year after initial notification of an award.

Sec. 583.325 Nondiscrimination and equal opportunity requirements.

(a) **General.** Notwithstanding the permissibility of proposals that serve designated populations of disabled homeless persons, recipients serving a designated population of disabled homeless persons are required, within the designated population, to comply with these requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, familial status, and disability.

(b) **Nondiscrimination and equal opportunity requirements.** The nondiscrimination and equal opportunity requirements set forth at part 5 of this title apply to this program. The Indian Civil Rights Act (25 U.S.C. 1301 et seq.) applies to tribes when they exercise their powers of self-government, and to Indian housing authorities (IHAs) when established by the exercise of such powers. When an IHA is established under State law, the applicability of the Indian Civil Rights Act will be determined on a case-by-case basis. Projects subject to the Indian Civil Rights Act must be developed and operated in compliance with its provisions and all implementing HUD requirements, instead of title VI and the Fair Housing Act and their implementing regulations.

(c) **Procedures.**

1. If the procedures that the recipient intends to use to make known the availability of the supportive housing are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or handicap who may qualify for admission to the housing, the recipient must establish additional procedures that will ensure that such persons can obtain information concerning availability of the housing.
2. The recipient must adopt procedures to make available information on the existence and locations of facilities and services that are accessible to persons with a handicap and maintain evidence of implementation of the procedures.

(d) **Accessibility requirements.** The recipient must comply with the new construction accessibility requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, and the reasonable accommodation and rehabilitation accessibility requirements of section 504 as follows:

1. All new construction must meet the accessibility requirements of 24 CFR 8.22 and, as applicable, 24 CFR 100.205.
2. Projects in which costs of rehabilitation are 75 percent or more of the replacement cost of the building must meet the requirements of 24 CFR 8.23(a). Other rehabilitation must meet the requirements of 24 CFR 8.23(b).

[58 FR 13871, Mar. 15, 1993, as amended at 59 FR 33894, June 30, 1994; 61 FR 5210, Feb. 9, 1996; 61 FR 51176, Sept. 30, 1996]

Sec. 583.330 Applicability of other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, use of assistance provided under this part must comply with the following Federal requirements:

(a) Flood insurance.

1. The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128) prohibits the approval of applications for assistance for acquisition or construction (including rehabilitation) for supportive housing located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:
 - (i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than a year has passed since FEMA notification regarding such hazards; and
 - (ii) Flood insurance is obtained as a condition of approval of the application.
2. Applicants with supportive housing located in an area identified by FEMA as having special flood hazards and receiving assistance for acquisition or construction (including rehabilitation) are responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(b) The Coastal Barrier Resources Act of 1982 (16 U.S.C. 3501 et seq.) may apply to proposals under this part, depending on the assistance requested.

(c) Applicability of OMB Circulars. The policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments) and 24 CFR part 85 apply to the award, acceptance, and use of assistance under the program by governmental entities, and OMB Circular Nos. A-110 (Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations) and A-122 (Cost Principles Applicable to Grants, Contracts and Other Agreements with Nonprofit Institutions) apply to the acceptance and use of assistance by private nonprofit organizations, except where inconsistent with the provisions of the McKinney Act, other Federal statutes, or this part. (Copies of OMB Circulars may be obtained from E.O.P. Publications, room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7332. (This is not a toll-free number.) There is a limit of two free copies.

(d) **Lead-based paint.** The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title apply to activities under this program.

(e) Conflicts of interest.

1. In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter. Participation by homeless individuals who also are participants under the program in policy or decision making under Sec. 583.300(f) does not constitute a conflict of interest.
2. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (e)(1) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the program and the effective and efficient administration of the recipient's project. An exception may be considered only after the recipient has provided the following:
 - (i) For States and other governmental entities, a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 - (ii) For all recipients, an opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.
3. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirement of paragraph (e)(2) of this section, HUD will consider the cumulative effect of the following factors, where applicable:
 - (i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the project which would otherwise not be available;
 - (ii) Whether the person affected is a member of a group or class of eligible persons and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
 - (iii) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
 - (iv) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (e)(1) of this section;
 - (v) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest

served by avoiding the prohibited conflict; and
(vi) Any other relevant considerations.

(f) Audit. The financial management systems used by recipients under this program must provide for audits in accordance with 24 CFR part 44 or part 45, as applicable. HUD may perform or require additional audits as it finds necessary or appropriate.

(g) Davis-Bacon Act. The provisions of the Davis-Bacon Act do not apply to this program.

[58 FR 13871, Mar. 15, 1993, as amended at 61 FR 5211, Feb. 9, 1996; 64 FR 50226, Sept. 15, 1999]

Effective Date Note: At 64 FR 50226, Sept. 15, 1999, Sec. 583.330 was amended by revising paragraph (d), effective Sept. 15, 2000. For the convenience of the user, the superseded text is set forth as follows:

Sec. 583.330 Applicability of other Federal requirements.

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(d) Lead-based paint. Any residential property assisted under this part constitutes HUD-associated housing for the purposes of the Lead-Based Paint Poisoning Prevention Act and is, therefore, subject to 24 CFR part 35.

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